



**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA**

Frequently Asked Questions (rev 5/1/2006)

How does CM/ECF work?

An attorney creates a document on his/her computer using a word processing program. Instead of printing the document on paper, the attorney saves the file as a PDF document. The attorney accesses the system via the Internet and establishes his/her identity with a court-assigned login and password. The attorney types in the case number, selects the name of the party he/she represents, selects the type of document (answer, motion, etc.) to be filed. The system automatically creates a docket entry. Next, the system sends an e-mail notification of the filing to all attorneys who are registered for CM/ECF on the case. If an attorney in the case is not a registered CM/ECF user, a paper copy of the document must be served in the traditional manner.

Who will receive logins and passwords?

Attorneys who register with the CM/ECF system in the District of North Dakota will receive logins and passwords. They will only be issued to attorneys for security reasons.

Can only the attorneys on the case file a document?

If another attorney in the firm wishes to file a document in the case on which they are not an attorney of record, they can file a Notice of Appearance or ask the court to add them to the case. If a legal assistant or legal secretary wishes to file electronic documents for the attorney, the attorney may share their login and passwords with them as long as the attorney understands that he/she is ultimately responsible for the filing or misfiling.

Why are only attorneys allowed to register for ECF?

The CM/ECF login and password, together with an “/s/” signature, constitute a valid signature for the purposes of Rule 11 of the Federal Rules of Civil Procedure. Just as counsel was required to file a signed document, documents filed electronically must contain counsel’s “e-filing signature.” Please note that you do not need to register more than once. If you change firms, your electronic signature remains valid; however, you must update your mailing address and e-mail information.

What is needed to convert a file to a portable document format (PDF)?

There are a number of software programs that can convert word processing documents to PDF. Adobe Acrobat, pdf95, Fineprint pdfFactory, and higher versions of MS Word and Corel WordPerfect to name just a few. The court has no preference as to what software is used to convert the file as long as the document is legible.

When will ECF begin?

ECF began in the District of North Dakota internally on November 18, 2005. Attorney training sessions began in February of 2006. The court is now accepting electronically filed pleadings, which is the preferred method of practice in our District. In January of 2007, electronic filing will be the standard of practice in the District.

What training is available?

Hands-on training sessions are currently being offered by court personnel in Bismarck, Fargo and Minot. Check the website to register for a class at: www.ndd.uscourts.gov/CMECF/CM_ECF_AT.htm This course has been approved for 4.0 hours of CLE credit through the North Dakota State Bar Board and NALS, the Association of Legal Professionals.

Why should I attend a training session?

There is no substitute for the actual hands-on training for e-filing in our District. Plus, you will earn free CLEs! We have had students in our classes who have attended e-filing training in four separate federal courts, in four separate sessions, and they indicated that each court has different procedures and policies as per the judicial officers’ requirements. They found each session valuable. Students have found they learn from each other in class, and there are always questions and feedback which can only be obtained from a personal training session.

How do I sign up for e-mail notification?

The completion of the Attorney Registration Form, which includes your internet e-mail address, automatically signs you up for e-mail notification. You must keep your internet e-mail address current on CM/ECF.

Is there a charge to use the hyperlink that is provided in the e-mail notification?

The first visit to the hyperlink by the attorney of record for that particular case will not result in a charge. All additional visits will result in a PACER charge. (\$.08 per page with a \$2.40 maximum charge). Remember, the “free peek” is from the hyperlink to the document number, not the entire docket sheet. The free peek is available for 15 days.

Why should I sign up for PACER?

All electronic case filings are accessed through PACER. In order to review a case filing, docket sheet, run a report, etc., you must be registered and logged into PACER.

What constitutes a page in CM/ECF for billing purposes through PACER?

Billable pages are calculated in two ways in CM/ECF. A formula is used to determine the number of pages for an HTML formatted report. Any information extracted from the CM/ECF database, such as the data used to create a docket sheet, is billed using a formula based on the number of bytes extracted. For a PDF document, the actual number of pages are counted to determine the number of billable pages.

For report data retrieved from CM/ECF that is printed, the print job will not always match the number of pages billed. The number of pages printed will not always match the number of pages billed. The number of the pages printed is dependent on individual printer and browser settings. All users are charged equally for the same information regardless of browser settings or printer configurations.

A transaction receipt and the Review Billing History option are provided under Utilities for reviewing charges. Also, Review Transaction History is available on the PACER Service Center site in Account Information for reviewing transactions from all courts. The transactions are updated on the PACER website by the middle of each month. Contact PACER at: 1-800-676-6856 for more PACER information.

Who receives the automatic e-mail notification? (Notice of Electronic Filing/ NEF)

The e-mail notification goes to the e-mail box of the registered attorney or attorneys of record (whatever e-mail box is designated) and it can also go to a back-up email boxes. Each e-mail box receives one “free peek,” which is available for 15 days. If you view your e-mail notification after 15 days has expired, you will be charged the PACER fees.

If I have a login and password from another federal court, will that work for the District of North Dakota? How about the District’s Bankruptcy Court login and password?

No. There is no link between our system and other District Courts’ electronic case filing systems. You will need separate logins and passwords for each district court. You also need a separate login and password for the Bankruptcy Court for the District of North Dakota.

Will there be a separate login and password for PACER and CM/ECF?

Yes. The systems require two separate logins and passwords. A law firm may have one PACER login and password for the entire firm, and each individual will have his or her own CM/ECF login and password. Each attorney must have his/her own login and password to file documents in CM/ECF. The login and password, along with the “/s/” on a document, constitutes the attorney’s signature.

How are initiating document fees handled?

Civil cases are opened by the Clerk’s office. The court prefers filers e-mail PDF versions of documents (civil coversheet, complaint, notice of removal, third party complaint). See civil case opening procedures on the court’s website. We are not able to collect fees through a credit card system, so your new case will not be processed until the filing fee is received. Notice of Appeals (both civil and criminal) and Pro hac vice motions will also be e-filed by the Clerk’s office.

What about paper that has already been filed with the Court? What is happening with the paper files?

The court will not scan previously filed paper documents since November 18, 2005. The clerk’s office will be able to retrieve any documents in paper format if you need copies.

Will court staff have the same hours of operation as the system is available?

No. The system will be made available 24 hours a day, 7 days a week, with the exception of downtime for any maintenance. The clerk’s office help desk support will be from 8 am to 12 noon and 1 pm to 5 pm. Parties and attorneys wishing to e-file after 5 PM do so without help desk support. Attorneys will be notified of any scheduled maintenance via the main page of the district’s website.

How are large attachments being handled using ECF?

There is a 2 MB file limit for all e-filings. If any document is larger than 2 MB, it will need to be split into smaller parts and filed accordingly. ECF allows users to describe their filings in detail (e.g., exhibits A through D, part 1 of Exhibit A, etc.) so the court will understand what is contained in each file.

How will sealed filings be handled?

Upon filing of an indictment, information or criminal complaint, the United States Attorney assigned to the case will be given access to sealed data and permission to file under seal. Defense counsel will be given access to sealed data and permission to file under seal upon filing of an Order Appointing the Public Defender, CJA 20 Order Appointing Counsel, or a Notice of Appearance.

Counsel of record in civil cases must request permission from the clerk's office to access and file under seal.

NEFs will not issue in Sealed cases. Counsel are required to make service by traditional means.

How will I know if the motion I'm filing under seal is sealed?

If you receive this warning sign: **"Warning: You are not authorized to seal an entry/document for any of the defendants you have selected. If you continue this filing, it will not be sealed. Contact the court regarding permission to file sealed submissions."**

Then you **DO NOT HAVE** permission to file under seal. The system will allow attorneys to file the document, but, the DOCUMENT WILL NOT BE SEALED. **STOP** if you receive this warning. Call the clerk's office at the toll free Help Desk numbers and request permission to file under seal.

What about ex parte motions?

Ex parte motions can be e-filed by counsel without having permission to file under seal. Ex parte motions will only be able to be viewed by court users, and they will not appear on the docket sheet. There will be a "gap" in the docket numbers.

What about service for sealed documents and sealed motions?

Counsel of record must serve by traditional means any sealed motion or sealed document. An NEF will issue, however, opposing counsel will NOT be able to get their "free peek" of the document, so service needs to be completed traditionally.

Why can't I view a sealed document in a case when I'm the attorney of record?

Call the Help desk toll free number. Your view permission may not be set.

Why can't I view a sealed document in a case when I'm the attorney of record and my sealed permissions have been set?

To view sealed documents in cases in which you are counsel of record, you must first login to ECF, and then Query PACER (using your PACER login and password) from the ECF Main Menu Bar.

How do we know who is participating electronically on a case?

Click on the Utilities menu option on the Main Menu Bar and there is a miscellaneous option to view mailing information. Attorneys can view this information to see who is receiving service electronically and who is receiving service traditionally. You can view mailing information by case, or run mailing labels.

Should law firms use MS Word or Corel WordPerfect?

Either word processing option is fine. When e-filing information to ECF, your pleading must first be converted to PDF so the original software application is not pertinent. When sending chambers proposed orders, the court asks counsel to send the document in a Word Perfect format.

I tried to e-file a document but it says “format not recognized.” What am I doing wrong?

All documents must be submitted in Adobe PDF with an extension of “pdf.” Two common errors occur: 1) a user thinks they saved the document in PDF. The user then tries to file the word-processing version of the document instead of the PDF version. Or, 2) a user fails to indicate the full path name for the PDF file. Because the system cannot find the file, it responded with the “format not recognized” message.

Do I still need to e-file a Certificate of Service or Affidavit of Service?

Yes. Counsel are still required to complete and e-file a Certificate of Service with their pleadings as the last page of the document, or as a separate event to be e-filed. See the court’s website for this form and other CM/ECF forms.